

2020-74273 / Court: 133

CAUSE NO. _____

RANDY RIALS and MONTRELL SMITH	§	IN THE DISTRICT COURT
	§	
VS.	§	HARRIS COUNTY, TEXAS
	§	
SHORE OFFSHORE SERVICES, LLC	§	_____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiffs Randy Rials ("Rials") and Montrell Smith ("Smith") (collectively "Plaintiffs"), complaining of Defendant Shore Offshore Services, LLC ("Shore Offshore"), and for cause of action, would respectfully show this Honorable Court as follows:

I. DISCOVERY CONTROL PLAN

1.1 Plaintiffs intends to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4.

1.2 Plaintiffs affirmatively plead this suit does not fall under the expedited-actions process of Texas Rule of Civil Procedure because Plaintiffs are seeking monetary relief in excess of \$100,000.

II. PARTIES

2.1 Plaintiff Randy Rials is a citizen and resident of Mississippi.

2.2 Plaintiff Montrell Smith is a citizen and resident of Louisiana.

2.3 Defendant Shore Offshore Services, LLC is a Louisiana limited liability company with its principal place of business in Houston, Harris County, Texas. This Defendant does business in the State of Texas for the purpose of accumulating monetary profit, but does not have

EXHIBIT A

a designated agent for service of process in the State of Texas, they may be served with process as follows:

2.3.1 Defendant Shore Offshore Services, LLC, through its president, vice president, agent, or other person authorized to accept service, at its home office, 20333 State Hwy 249, Suite 200, Houston, Texas 77070;

2.3.2 Alternatively, Defendant Shore Offshore Services, LLC, is a Louisiana limited liability company with its principal place of business in Louisiana which does business in the State of Texas for the purpose of accumulating monetary profit, but does not maintain a regular place of business nor a designated agent for service of process in the State of Texas. For these reasons, long-arm service of process is to be upon the Texas Secretary of State pursuant to Tex.Civ.Prac. & Rem. Code §17.044. This suit arises out of business contacts in the State of Texas and, under the circumstances, Shore Offshore Services, LLC, has appointed the Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701, as its agent upon whom service of process may be had in this action. The Texas Secretary of State is requested to forward a copy of this Petition, along with Citation, by certified mail, return receipt requested, to Defendant, Shore Offshore Services, LLC, at its principal office, 499 Powhatten Court, Gibson, LA 70356.

2.4 Plaintiffs specifically invoke the right to institute this suit against whatever entities were conducting business using an assumed or common name, if any, with regard to the events described in this Petition. Plaintiffs specifically invoke the right under Rule 28, Texas Rules of Civil Procedure, to have the true name of such parties substituted at a later time, if necessary.

III. JURISDICTION

3.1 This claim is maintained under admiralty 28 U.S.C. § 1333, and the general maritime law of the United States. This Court has jurisdiction pursuant to the saving to suitors clause. This Court also has jurisdiction over this case because Defendant systematically conducts business in the State of Texas. The damages sought herein are in excess of the minimal jurisdictional limits of this Court.

3.2 It is well-established that maritime cases are not removable to federal court.

IV. VENUE

4.1 Venue is proper in Harris County, Texas under Tex. Civ. Prac. & Rem. Code § 15.002(a)(3) because Harris County is the county of one of Defendant's principal offices in this state.

V. FACTS

5.1 On or about October 28, 2020, Plaintiffs were employed as workers by a third party to perform work on the D/B *Thor*, a derrick barge owned and operated by Shore Services.

5.2 On that date, the D/B *Thor* was docked at the Port of Fourchon due to the expected weather conditions caused by Hurricane Zeta. The lines securing the vessel to the dock broke and the vessel left the dock, adrift on the water. Following this, the barge went down the canal striking several vessels along the way. Plaintiffs sustained serious injuries as a result of the collisions that occurred.

VI. NEGLIGENCE AND GROSS NEGLIGENCE

6.1 Defendant owed Plaintiffs a duty to exercise ordinary care.

6.2 The damages sustained by Plaintiffs were proximately caused by the negligence of Defendant, their officers, agents, or employees, in one or more of the following ways:

- (a) failing to safely secure the vessel to the dock;
- (b) failing to safely evaluate weather conditions;
- (c) failing to take reasonable precautions for Plaintiffs' safety;
- (d) failing to perform adequate safety meetings and analyses to identify and minimize the risk to Plaintiffs and others;
- (e) failing to assess the conditions on board the vessel;
- (f) failing to eliminate dangerous conditions on the vessel; and,
- (g) other acts of negligence and/or omissions to be shown at trial herein.

6.3 As a result of Defendant's actions and/or inactions, Plaintiffs have been caused to endure considerable pain and suffering, and as a result thereof, were obliged to obtain medical care and treatment, caused to lose time from his employment, and sustain the monetary and financial loss occasioned by said lost time from work. Plaintiffs have been prevented, and in all likelihood will continue to be prevented, from engaging in their usual occupations, pastimes and pursuits which they would have engaged in but for the injury aforementioned

6.4 Plaintiffs would show that each of the foregoing, individually or collectively, constituted negligence, which was a proximate cause of Plaintiffs' injuries and resultant damages complained of herein.

6.5 In addition to the above negligent acts, Defendant acted willfully, and with malice, or recklessness, in doing the things alleged, and was grossly negligent in the aforementioned particulars.

6.6 Defendant had actual, subjective, awareness of the risks involved due to the weather conditions caused by Hurricane Zeta but nevertheless proceeded in conscious indifference to the rights, safety, and welfare of Plaintiffs and other individuals located on the vessel.

6.7 Plaintiffs' injuries were not caused by any contributing fault of their own, but solely the negligence and/or gross negligence of Defendant.

VII. DAMAGES

7.1 As a direct and proximate result of Defendant's negligence and/or gross negligence, Plaintiffs suffered the following damages, including, but not limited to: (a) mental anguish in the past and future; (b) lost earnings; (c) loss of earning capacity; (d) disfigurement in the past and future; (e) physical impairment in the past and future; (f) medical expenses in the past and future; (g) physical pain and suffering in the past and future; (h) punitive damages.

7.2 Plaintiffs are seeking monetary relief over \$1,000,000.

VIII. REQUEST FOR DISCLOSURE

8.1 Plaintiffs request that each defendant disclose, within 50 days of the original service of this request, the information or material described in Rule 194.2, Tex.R.Civ.P.

WHEREFORE, Plaintiffs pray the Court issue citation for Defendant to appear and answer, and that Plaintiffs be awarded a judgment against Defendant, for the following:

- a. Actual damages;
- b. Exemplary damages;
- c. Prejudgment and postjudgment interest;
- d. Court costs;
- e. Punitive damages and attorney's fees; and

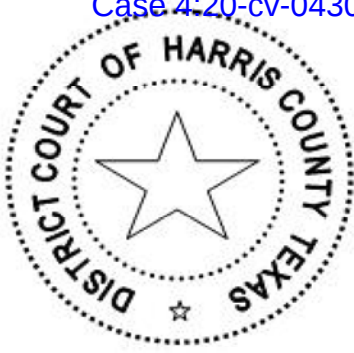
f. All other relief to which Plaintiff is entitled.

Respectfully submitted,

By: /s/ Marcus R. Spagnoletti

Marcus R. Spagnoletti
State Bar No. 24076708
mspagnoletti@spaglaw.com
Eric J. Rhine
State Bar No. 24060485
erhine@spaglaw.com
SPAGNOLETTI LAW FIRM
401 Louisiana Street, 8th Floor
Houston, Texas 77002
713.653.5600 (T)
713.653.5656 (F)

ATTORNEYS FOR PLAINTIFFS



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this December 18, 2020

Certified Document Number: 93149563 Total Pages: 6

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

**Marilyn Burgess**

HARRIS COUNTY DISTRICT CLERK

Marilyn Burgess - District Clerk Harris County

Envelope No. 48921150

By: Brianna Denmon

Filed: 12/14/2020 1:35 PM

201 Caroline | P.O. Box 4651 | Houston, Texas 77210-4651 | 832-927-5800 | www.hcdistrictclerk.com

Request for Issuance of ServiceCASE NUMBER: 2020-74273CURRENT COURT: 133rd Judicial DistrictName(s) of Documents to be served: Plaintiffs' Original Petition and Request for DisclosureFILE DATE: 12/14/2020 Month/Day/Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Shore Offshore Services, LLCAddress of Service: 20333 State Hwy 249, Suite 200City, State & Zip: Houston, Texas 77070

Agent (if applicable) _____

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

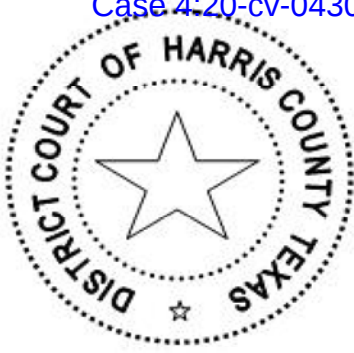
- ☒ Citation ☐ Citation by Posting ☐ Citation by Publication ☐ Citations Rule 106 Service
☐ Citation Scire Facias Newspaper _____
☐ Temporary Restraining Order ☐ Precept ☐ Notice
☐ Protective Order
☐ Secretary of State Citation (\$12.00) ☐ Capias (not an E-Issuance) ☐ Attachment
☐ Certiorari ☐ Highway Commission (\$12.00)
☐ Commissioner of Insurance (\$12.00) ☐ Hague Convention (\$16.00) ☐ Garnishment
☐ Habeas Corpus ☐ Injunction ☐ Sequestration
☐ Subpoena
☐ Other (Please Describe) _____

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- ☐ ATTORNEY PICK-UP (phone) _____ ☒ E-Issuance by District Clerk
☐ MAIL to attorney at: _____ (No Service Copy Fees Charged)
☐ CONSTABLE **Note: The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents.**
☐ CERTIFIED MAIL by District Clerk Visit www.hcdistrictclerk.com for more instructions.
☐ CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____
☐ OTHER, explain _____

Issuance of Service Requested By: Attorney/Party Name: Marcus Spagnoletti Bar # or ID 24076708Mailing Address: 401 Louisiana St. 8th Fl, Houston TX 7700Phone Number: 713.653.5600



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this December 18, 2020

Certified Document Number: 93513902 Total Pages: 1

Marilyn Burgess, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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Marilyn Burgess

HARRIS COUNTY DISTRICT CLERK

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SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

Issue Service to: Shore Offshore Services, LLCAddress of Service: 499 Powhatten CourtCity, State & Zip: Gibson, Louisiana 70356Agent (if applicable) Texas Secretary of State, 1019 Brazos Street, Austin, Texas 78701

TYPE OF SERVICE/PROCESS TO BE ISSUED: (Check the proper Box)

- | | | | |
|---------------------------------------------------------------------------|-------------------------------------------------------|--------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Citation | <input type="checkbox"/> Citation by Posting | <input type="checkbox"/> Citation by Publication | <input type="checkbox"/> Citations Rule 106 Service |
| <input type="checkbox"/> Citation Scire Facias | Newspaper _____ | | |
| <input type="checkbox"/> Temporary Restraining Order | <input type="checkbox"/> Precept | <input type="checkbox"/> Notice | |
| <input type="checkbox"/> Protective Order | | | |
| <input checked="" type="checkbox"/> Secretary of State Citation (\$12.00) | <input type="checkbox"/> Capias (not an E-Issuance) | <input type="checkbox"/> Attachment | |
| <input type="checkbox"/> Certiorari | <input type="checkbox"/> Highway Commission (\$12.00) | | |
| <input type="checkbox"/> Commissioner of Insurance (\$12.00) | <input type="checkbox"/> Hague Convention (\$16.00) | <input type="checkbox"/> Garnishment | |
| <input type="checkbox"/> Habeas Corpus | <input type="checkbox"/> Injunction | <input type="checkbox"/> Sequestration | |
| <input type="checkbox"/> Subpoena | | | |
| <input type="checkbox"/> Other (Please Describe) _____ | | | |

(See additional Forms for Post Judgment Service)

SERVICE BY (check one):

- | | |
|--------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> ATTORNEY PICK-UP (phone) _____ | <input checked="" type="checkbox"/> E-Issuance by District Clerk
(No Service Copy Fees Charged) |
| <input type="checkbox"/> MAIL to attorney at: _____ | Note: The email registered with EfileTexas.gov must be used to retrieve the E-Issuance Service Documents.
Visit www.hcdistrictclerk.com for more instructions. |
| <input type="checkbox"/> CONSTABLE | |
| <input type="checkbox"/> CERTIFIED MAIL by District Clerk | |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____ Phone: _____ | |
| <input type="checkbox"/> OTHER, explain _____ | |

Issuance of Service Requested By: Attorney/Party Name: Marcus Spagnoletti Bar # or ID 24076708Mailing Address: 401 Louisiana St. 8th Fl, Houston TX 7700Phone Number: 713.653.5600



I, Marilyn Burgess, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this December 18, 2020

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